(1)

Supreme Court, U.S.
FILED

01 461 JUL 07 2001

No.

IN THE
Supreme Court of the United States

DELOYISE ECHOLS,

V.

LOUIS CALDERA,
Secretary, Department of the Army

On Petition for Writ Of Certiorari
To The
UNITED STATES COURT OF APPEALS
4TH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

Deloyise Echols
Pro se
Alte Dorf Str. 2 B
21702 Ahlerstedt
, 00000 Germany

60pp

QUESTIONS PRESENTED

Whether the Fourth Circuit erred when it affirmed the United States District Court for the Eastern District of Virginia, Alexandria Division order dismissing Appellant's petition or in the alternative granting summary judgment in the matter on the grounds that:

1. That the Court lacked subject matter jurisdiction over Appellant's claims as they arose before the Civil Rights Act of 1991 was amended to specifically include extraterritorial acts?
2. That Appellant failed to establish a prima facie case of retaliation?
3. That Appellant could not rebut the Army's legitimate nondiscriminatory reasons for the actions taken?
4. That Appellant failed to timely file a Judicial complaint for some issues in the petition?
5. That Appellant's demand for compensatory damages and a jury trial should be dismissed because his Title VII claims predate the Civil Rights Act of 1991 which authorized compensatory damages and jury trials?

TABLE OF CONTENTS

Questions Presented ii

Table of Authorities iii

Opinions Below 1

Jurisdiction 1

Constitutional and Statutory Provisions Involved 2

Statement of the Case 3

Reason for Granting the Petition 9

Conclusion 10

Appendix 11

TABLE OF AUTHORITIES

Albemarle Paper Co. v. Moody, 422 U.S. 405, 481-422 (1975) 8

Carter v. Bell, 33 F.3d 450, 458 (4th Cir. 1994) 7

E.E.O.C. v Arabian American Oil Co., 499 U.S. 244, 249 (1991) 4

Hochstadt v. Worcester Foundation for Experimental Biology Inc., 425 F.Supp. 318 (D. Mass. 1976), aff'd . F.2d 222 (1st Cir. 1976) 5

Landgraf v. USI Products, 511 U.S. 244 (1994) 8

United States v. Burkes, 504 U.S. 229, 240 (1992) 9

OPINIONS BELOW

The opinion of the United States Court of Appeals appears at Appendix A to the petition and is unpublished.

The opinion of the United States District Court appears at Appendix C to the petition and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals decided my case was February 1. 2001. A timely petition to rehearing was denied by the United States Court of Appeals on the following date: April 10. 2001, and a copy of the order denying rehearing appears at Appendix B. The Jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Civil Rights Act of 1964 ("Title VII"), as amended, 42 U.S.C. § 2000e, et seq.,

29 C.F.R. § 105(a)

29 C.F.R. § 1613.233

STATEMENT OF THE CASE

In April 21, 2000, the United States District Court for the Eastern District of Virginia, Alexandria Division entered an order dismissing my complaint or in the alternative granting summary judgment. That order recited factual errors in direct contradiction of the records. My motion to reconsider the order of dismissal and to alter or amend the order was denied on May 19, 2000. The Fourth Circuit affirmed the lower courts ruling on February 1, 2001 and denied a motion for rehearing on April 10, 2001. My case was never decided on the merits.

I began civilian employment with the United States Army on January 18, 1982 and was subsequently terminated on April 5, 1988. During the time of my employment I was forced to file several complaints for continued forms of reprisal, the first complaint in May of 1986. This complaint was filed because of sexual harassment. Mr. Jan Whited, head of the Housing Facilities Office, for the Heidelberg Community where I worked did not want me to file my

client and informed me that I would be opening "Pandora's Box" if I did.

ARGUMENT

1. That the Court lacked subject matter jurisdiction over Appellant's claims as they arose before the Civil Rights Act of 1991 was amended to specifically include extraterritorial acts

The defendant argued that the Court lacked subject matter jurisdiction over Appellant's Title VII claims because prior to the enactment of the Civil Rights Act of 1991, Title VII did not apply extraterritorially to regulate employment practices of United States employers who employ United States citizens overseas citing E.E.O.C v. Arabian American Oil Co. 499 U.S. 244, 249 (1991). In Arabian American Oil Co., the Court held that there was not sufficient evidence that "Congress intended Title VII to apply abroad." 499 U.S. at 259. Therefore, the Court lacked jurisdiction over the

Title VII claims of an American citizen employed by an American company overseas. Id.

The language in Arabian American Oil Co., does not specifically address the United States Government as an American company overseas. A reasonable interpretation would conclude that the United States Government was not address because Title VII has always provided protection for American citizens. A reasonable person employed by the United States Government, even if that employment was overseas, would not believe that his rights were no longer protected, because of the fact that he was overseas. A more logical and just interpretation of the Civil Rights Act of 1991 would be that it provided added protection for American citizens employed by American companies overseas, which has always been afforded to American citizens employed by the United States Government. Therefore, the Court can exercise jurisdiction over claims that arose before the Civil Rights Act of 1991 was amended to include all American companies overseas that employ American citizens.

2. **That Appellant failed to establish aprima facie case of retaliation**

In order to establish a prima facie case of retaliation, the complainant must show that (1) he engaged in protected activity; (2) the employer Agency was aware of the protected activity; and (3) adverse treatment occurred as a result. This can be demonstrated by showing that the adverse treatment occurred subsequently, in such a period of time that a retaliatory motive can be inferred. Hochstadt v. Worcester Foundation for Experimental Biology Inc., 425 F. Supp. 318 (D. Mass. 1976), aff'd 545 F.2d 222 (1st Cir. 1976). Numerous incidents occurred after I filed my discrimination claim, which was a protected activity. Mr. Whited, the head of Housing Facilities Office was aware of my claim and as he predicted "Pandora's Box" opened.

My sexual harassment complaint was settled by a Negotiated Settlement Agreement dated September 11, 1986. (Appendix D). One of the terms of the settlement was that the Army agreed to reinstate, in full, my lost pay. After my reinstatement the reprisal started. First I was reassigned from my former job of housing inspector to the warehouse. This was a loss of normal work assignments.

The next occurred on November 25, 1986 when I was informed that my position was being terminated and that I would no longer be employed. (Appendix D) This occurred

shortly after my sexual harassment complaint was resolved. In response to my termination, I failed a retaliation complaint. This complaint, too, was settled by a negotiated settlement approved be the Deputy Commander, USMC Heidelberg, on February 19,1987. (Appendix D). The Agreement called for my rehire as a motor vehicle operator, warehouse worker. Only four (4) days after my reinstatement I was once again transferred over my objection to a "set of duties" in the warehouse. (Appendix E). This constituted a loss of normal work assignment.

On April 5, 1988, I was subsequently terminated "because of budget cuts," along with several other overhires. Mr. Whited, admitted in his sworn deposition that he had looked at justification of the very job that he transferred me to as early as June or July of 1986. The reduction of the overhires for budgetary reasons does not constitute retaliation. Mr. Whited deliberate transfer of me to a position that he knew or had good reason to know would be abolished by budgetary cuts constitutes an act of reprisal an is an impermissible act of retaliation.

3. That Appellant could not rebut the Army's legitimate nondiscriminatory reasons for the actions taken

The Defendant argued that Appellant cannot meet his burden of proving the Army's reasons for the actions complained of were false and that retaliation was the motivating factor for the actions taken. The Defendant can always hide behind or articulate nondiscriminatory reasons for the adverse action taken against me. Therefore, if I am never given the opportunity to present my side, wrongs will never be righted and this type of reprisal will continue to the detriment of others. Reasonable minds could differ as to whether or not a genuine dispute of materials facts exist as set out in Carter v. Bell, 33 F.3d 450, 458(4th Cir. 1994).

4. That Appellant failed to timely file a Judicial complaint for some issues in the petition

The Defendant argued that some of my claims were over a decade old, and therefore, untimely. After I was retaliated against the second time a complaint process was initiated and a formal complaint was filed January 19, 1989. On January 27, 1989, Leo Franklin, E.E.O. Officer, notified me that he was rejecting six of my seven allegations in the formal complaint. I appealed Mr. Franklin's partial acceptance of my claims. On April 2, 1990, the E.E.O

office issued a partial acceptance letter and a prior rescission, and accepted all but one claim, no.: 88-06-0128(that I had been discriminated against because I was terminated by budget cuts). (Appendix F). My complaint of reprisal was not that I was terminated because of budget cuts, but that my transfer to the job was an act of reprisal, and therefore this claim was not identical to claim 88-06-0128. On September 13, 1991, the E.E.O.C agreed and ordered the agency to accept my complaint for processing. (Appendix F). The Army failed to comply in a timely fashion and the Army Compliance and Complaint's Review Agency notified the Commander that compliance was mandatory and that I was to receive notice by July 6, 1992. (Appendix F). Therefore the issues should be preserved as being timely.

5. That Appellant demand for compensatory damage and a jury trial should be dismissed because his Title VII claims predate the Civil Rights Act of 1991 which authorized compensatory damages and jury trials

Prior to the enactment of the 1991 Act, Title VII allowed for an award of backpay as a remedy for intentional discrimination which resembles

compensatory damages in some respects. See Albemarle Paper Co. v. Moody, 422 U.S. 405, 418-422 (1975). This Court in Landgraf v. USI Products, 511 U.S. 244 (1994), held that the new compensatory damages' provision of the 1991 Act was in addition to, and did not replace or duplicate, the backpay remedy allowed under prior law. 511 U.S. at 253. Under the prior statute a Title VII plaintiff could only recover monetary relief if the discrimination was also found to have some concrete effect on the plaintiff's employment status, such as a denied promotion, a differential in compensation, or termination. United States v. Burke, 504 U.S.229, 240 (1992). I was terminated from employment as a result of the acts complained of. Since, § 102 allows for a jury trial only if the complaining party was seeking compensatory or punitive damages, this section would not appear to deny my claim. The law prior to enactment of § 102 affords me a viable remedy. I am seeking some form of redress for the continued progressive acts of discrimination and reprisals, this could be in the form of backpay and/or reinstatement to the Heidelberg Military Community.

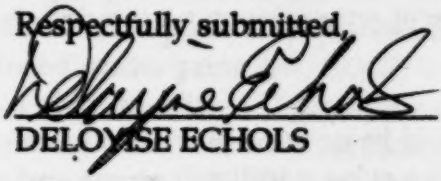
REASON FOR GRANTING PETITION

This petition should be granted in an effort to right some of the wrongs that have been inflicted on me and my family. I believe that a known discriminating officer should not have been allowed on three separate occasions to retaliate against me, and the matter not be redressed. As a result of these acts I have lost my job and have been classified as an ordinary resident of Germany, which makes it impossible to regain employment within the United States Military Community in Heidelberg. If this petition is not granted, the 4th Circuit is in essence sanctioning discrimination and hiding behind pretexts of nondiscriminatory reasons. This matter should be addressed now, so that other American citizens living overseas and working for the United States Government will not have to fear reprisal for engaging in protected activity.

CONCLUSION

Petitioner respectfully prays that the petition for a writ of certiorari should be granted.

Respectfully submitted,



DELOYISE ECHOLS

APPENDIX A

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 00 - 1749

DELOYISE ECHOLS, Plaintiff Appellant

versus

LOUIS CALDERA, Secretary, Department of the Army,

Defendant - Appellee

Appeal from the United States District Court for the Eastern District of Virginia, at Alexandria. Albert V. Bryan, Jr., Senior District Judge. (CA-00-247-A)

Submitted: December 15, 2000
Decided: February 1, 2001

Before WILKINS, MICHEAL, and TRAXLER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Dorrance D. Dickens, Washington, D.C., for Appellent. Helen F. Fahey, United States Attorney, Edward J. Martin, Special Assistant United States Attorney, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36 (c).

PER CURIAM:

Deloyise Echols appeals the district court's orders dismissing his action alleging employment discrimination and denying his motion to reconsider. We have reviewed the and the district court's opinion and find no reversible error. Accordingly, we affirm on the reasoning of the district court. Echols v. Calders, No. CA-00-247-A (E.D. Va. Apr. 25, 2000). We dispense the oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED

APPENDIX B

FOR THE FOURTH CIRCUIT FILED
April 10, 2001

No. 00 - 1749
CA - 00 - 247 - A

DELOYISE ECHOLS

Plaintiff - Appellant

v.

LOUIS CALDERA, Secretary, Department Of the Army

Defendant - Appellee

On Petition for Rehearing and Reheanring En Banc

The appellant's petition for rehearing and rehearing en banc was submitted to this Court. As no member of this Court or the panel requested a poll on the petition for rehearing en banc, and As the panel considered the petition for rehearing and is of the opinion that it should be denied, IT IS ORDERED that the petition for rehearing and rehearing en banc is denied.

For the Court,
/s/ Patricia S. Connor
CLERK

APPENDIX C

IN THE UNITED STATES DISTRICT COURT FOR
THEEASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

DELOYISE ECHOLS,)
Plaintiff,
v.
CIVIL ACTION NO. 00-247-A
LOUIS CALDERA, Secretary,)
Department of the Army,)
Defendant.

ORDERED

This matter is before the court on the plaintiff's motion to reconsider the court's order April 21, 2000, dismissing the exception of one allegation, the claims raised in the complaint were not the subject of the EEOC's February 4, 1999 Denial of the Request for the Reconsideration and as a result, the majority of plaintiff's claims were untimely, either because the time for appeal to the federal court following administrative action expired or the time to initiate the claim with the requisite administrative

procedures expired. With respect to the single claim that could be construed as timely, i.e., the designation of plaintiff as an ordinary resident, the court found that plaintiff had come forward with nothing from which the court could conclude that defendant's legitimate non-discriminate reason for the action was pretextual and the real reason was unlawful retaliation under Title VII.

In his motion to reconsider, plaintiff essentially argues, in conclusory fashion, that because four of plaintiff's claims had been consolidated in administrative appeals, all of the issues covered by any of those consolidated complaints should be available and timely. Plaintiff also argues that the claims are "interrelated" and "describe" a pattern of activity that is appalling and should be redressed in a court of law," and that the court wrongfully considered the claims as eight separate events. Plaintiff also points out that Judge King's ruling, on which the February 4, 1999 decision is based includes on its face the case number 89-07-0100, which number also appears on a letter dated September 1989 nothing that the final agency determination on that complaint was at one time rescinded. Seemingly, plaintiff suggests that 1987 transfer claim, which he contends is "the issue here," was a part of case number 89-07-0100 and that because that number appears on the administrative judge's ruling, plaintiff's case is timely.

The court does not find plaintiff's argument persuasive and denies plaintiff's motion to reconsider. The only claims in this case that can potentially be timely are those addressed in the February 4, 1999 order. Both the February 4th order and Judge King's Ruling articulate the discrete claims before them thoroughly and straightforwardly, including those claims initially raised under 89-07-0100. Neither the transfer claim nor any of the other claims in this complaint, except the ordinary resident status claim, are apart of those decisions.

Therefore, even if the 1987 transfer claim was raised in the initial stages of 89-07-0100, it could not have been sufficiently preserved because it was not in any way the subject of the decision in 1999. The time to bring a civil action on grounds of the 1987 transfer has long expired.

Plaintiff is also unsuccessful in persuading the court that the ordinary resident status claim is viable. For these reasons, plaintiff's motion is denied.

/s/ Albert V. Bryan, Jr.
United State District Judge

Alexandria, Virginia
May 19th, 2000

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

DELOYISE ECHOLS,
Plaintiff,
v.
CIVIL ACTION NO. 00 - 247 - A
LOUIS CALDERA, Secretary,
Department of the Army,
Defendant.

ORDER

This matter is before the court on defendant's motion for enlargement of time to file a responsive pleading and defendant's motion to dismiss, or in alternative, summary judgment. Upon consideration of the parties' submission and for the reasons set forth in the Memorandum Opinion filed this day, it is hereby ORDERED that:

1. Defendant's motion for an enlargement of time is GRANTED; and
2. Defendant's motion to dismiss, or in alternative, summary judgment is GRANTED; and
3. This case is dismissed with prejudice.

/s/ Albert V. Byran, Jr.
United States District Judge

Alexandria, Virginia
April 21st, 2000

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

DELOYISE ECHOLS,	)
Plaintiff,	)
v.	)
CIVIL ACTION NO. 00 - 247 - A	
	)
LOUIS CALDERA, Secretary,	)
Department of the Army,	)
	)
Defendant.	)

MEMORANDUM OPINION

Defendant filed a motion for enlargement of the of time to file a responsive pleading and a motion to dismiss, or in the alternative for summary judgment on March 21, 2000. For the reasons set forth below, these motions are granted and this case is dismissed with prejudice.

Background

Plaintiff brought this employment discrimination suit pro se in the United States District Court for the District of the District of Columbia on April 22, 1999. In his complaint,

plaintiff alleges that because he engaged in protected activity concerning unlawful employment discrimination complaints with EEO office of the Department of the Army, adverse action taken against him "was and continue to be a systematic retaliatory process" designed to cause him financial, psychological and emotional harm. The alleged adverse action includes the following:

1. Bad faith implementation and enforcement of negotiated settlement agreements that were signed in September 1986 and February 1987;
2. Plaintiff's transfer in February 1987 from an "approved job requirement to a set of duties;"
3. Revocation of drivers' privileges "despite exculpatory evidence;"
4. Unfair employment consideration during February and March 1988;
5. Termination in April 1986;
6. Designation as "ordinary resident;"
7. Failure to process and give proper guidance on a claim for injuries on April 22, 1986;
8. Threat from official that if he were to file a discrimination complaint, it "will open the door to 'pandora's box.' "

This case was transferred from federal court in the District of Columbia to this court on February 11, 2000. Prior to the

filing of the motions presently at issue, defendant had not filed anything in the case. In his motion for enlargement of time to respond, defendant indicates that the United States Attorney for Eastern District of Virginia did not receive the case until March 20, 2000. Now, defendant has moved to dismiss on several grounds, arguing that the conduct in this case occurred before Title VII applied abroad, that the required administrative procedures were not followed on several claims, that on the claims in which administrative procedures were conducted, the filing of the civil suit after their completion was untimely, that many of the claims do not involve conduct that rises to the level of ultimate employment decisions, the legitimate nondiscriminatory reasons offered cannot be rebutted. [1]

In response, plaintiff contends that based upon the language of the statue, even if employees of American owned private companies operating oversees were not covered by Title VII until 1991, civilian employees of the government of the United States were covered under the Act. With respect to defendant's missed deadlines and requests that the court overlook plaintiff's untimeliness. Plaintiff argues that the decision issued on February 2, 1999, informs plaintiff that he has both ninety days and thirty

---

[1] Defendant also submits that the demand for compensation damages and trial by jury must be denied, argued that these remedies came into existence in November 21, 1991, and Title VII does not apply retroactively.

days to file a federal civil action. Plaintiff reports his suit was mailed from Germany on March 13, 1999, and given that he was pro se at the time, he argues that a slight exception for the plaintiff would be just and equitable. Plaintiff also argues that he has offered evidence sufficient to make out a prima facie case. In particular, plaintiff points out that the government concedes that he engaged in protected activity by filing an EEOC claim and that he was subsequently terminated. Plaintiff also lists a number of facts related to the negotiated settlement agreements and the subsequent course of the plaintiff 's employment and argues that based on these, a reasonable jury could conclude that plaintiff suffered unlawful discrimination.

Discussion

The court finds that the timeliness issues in this matter require disposition of all allegations except for the claim of plaintiff's classification as "ordinary resident." With respect to that claim, moreover, the court finds that it must also be dismissed because plaintiff has come forward with nothing from which the court could conclude the legitimate nondiscriminatory reason that defendants offers pretextual.

While plaintiff has pointed out that the filing of this case was within the ninety days mentioned in the February 2, 1999 EEOC Denial of Request for Reconsideration, this fact

fails to save the majority of plaintiff's claims from being barred. With the exception of the claim that plaintiff was wrongfully designated an "ordinary resident," the claim raised in the complaint were not a part of the most recent EEOC denial, as demonstrated by EEOC Decision dated February 4, 1999, at Defendant's Exhibit 10. [2] Rather, many of the claims at issue here had been subject to final agency disposition either by EEO order dated November 15, 1989,[3]

---

[2] The other allegations that the EEOC addressed in the February 4, 1999 order include the following: (1) the staff judge advocate took actions that placed plaintiff in a position to be persecuted; (2) the personnel office did not notify him that he had referred for positions since 1988; (3) persons put false information into his claim file; (4) the EEO Investigator was romantically with a responsible Management Official; (5) an EEO officer did not consider certain information, rejected some issues, did not forward numerous exhibits, and failed to join plaintiff's complaints, supported the EEO officer's rejection and his omission of exhibits and witness testimony; and (7) the servicing EEO officer, in concert with Labor Counselor allowed one of appellants complaints to "fall into hands of" an EEO staff member who was the wife of alleged HMO in one of appellant's prior complaints. Even affording plaintiff's complaint a liberal construction, the claims made in this complaint do not duplicate those addressed in the February 4, 1999 decision.

---

[3] These include the alleged bad faith enforcement of the negotiated settlement agreement; unfair employment [3] consideration in February and March 1988; and the plaintiff's termination in April 1988.

or September 14, 1990. [4] Accordingly, claims one, two, three, four, and five, as listed earlier in this order, are dismissed as untimely.

The claims that were not the subject of the decade old final agency decisions also suffer fatal timeliness problems. In particular, claims seven and eight, which describe conduct that allegedly occurred well over ten years ago, as defendant points out, have never been raised with an EEO counselor, nor have they been the subject of any administrative proceedings. Therefore, agency remedies are time barred on these claims, and a federal civil action is precluded. See 29 C. F. R. 1614.105 et seq. .

Furthermore, with respect to the allegation regarding plaintiff's ordinary resident status, the court concludes that this claim must also dismissed. Defendant offers that this categorization was the product of the objective application of regulations governing Americans working within the United States Army in Europe, and the evidence shows that it was made pursuant to NATO-Status of Forces Agreement. In response, plaintiff has come forward with nothing that the court could conclude that the offered reason was pretextual and the real reason for plaintiff's classification as "ordinary resident" is unlawful retaliation under Title VII.

---

[4] These include the 1987 transfer to a new set of duties and the revocation of plaintiff's drivers' privileges.

Conclusion

For the reasons set forth above, defendant's motion to dismiss, or in the alternative, for summary judgment is granted and case is dismissed with prejudice.

/s/ Albert V. Bryan, Jr.
United States District Judge

Alexandria, Virginia
April 21st, 2000

APPENDIX D

Department of the Army
Headquarters, US Military Community, Heidelberg
APO New York 09102

Negotiated Settlement Agreement
in the Matter of
Mr. Deloyise Echols
Directorate of Engineering and
Housing Division U.S. Military Community
Heidelberg

SUBJECT: Resolution of Reprisal Allegations, Mr. Deloyise Echols USACARA Docket #07-87-017-E

1. PURPOSE: In the interest of promoting its Equal Employment Opportunity (EEO) Program and to avoid protracted litigation, the Army (agency) agrees to resolve and settle all claims of discrimination which Mr. Deloyise Echols (complainant) has asserted or could assert as a consequence of the abolition of the temproary overhire position that he occupied within the Directorate of Engineering and Housing (DEH), Housing Division's Central Furnishing Warehouse.
2. REFERENCES.

a. 28 November 1986, Informal Complaint.
b. 12 December 1986, Formal Complaint.
3. PROBLEM. In his 28 Nov. 1986 informal complaint and 12 December 1986 formal complaint, the complainant alleged that:
    a. Because he filed previous informal and formal EEO complaints dated 21 July and 22 August 1986, respectively, DEH Housing Division Management, has taken reprisal actions against him.
    b. Specifically, on 25 Nov. 1986, he was told that effective 5 Dec. 1986, his temporary overhire appointment would be terminated; which would result in his being unemployed as of that date.
    c. That it is his belief that the timing of management's notifying him (two days before Thanksgiving) and the effective date of his termination (20 days before Christmas) was maliciously designed to cause him maximum financial, psychological, and emotional harm because of his previous EEO complaints.

4. SCOPE. Resolution of such claims which are within the purview/authority of the Commander, 26th Support Group and Deputy Community Commander, United States Military Community, Heidelberg (USMC-Heidelberg).
5. AGREEMENT.
    a. The Housing Manager, DEH, will reinstate the complaint to his former position of Motor Vehicle Operator (Warehouse Worker) WG-5703-grade 6, step 4 or to a comparable graded or paying position for which the complainant is qualified.
    b. The agency will pay the complainant full retroactive wages benefits that he lost during the full period that he was unemployed as a result the abolishment of the WG-5703 position that he occupied until 19 Dec. 1986.
    c. The agency will make good faith effort to agree upon a reasonable attorney's fee to be paid to the complainant's attorney for services rendered subsequent to the filing of the Formal Complaint dated 12 Dec. 1986. Complainant's counsel should submit a statement and justification of fees in a accordance with HQ Department of the Army Message 281436z Jan 1983, 29 CFR 1613. 271 and AR 690-600.
    d. The complainant's signature on this agreement

constitutes the withdrawal of his complaint of discrimination as stated in his 28 Nov. 1986 Informal Complaint and his 12 Dec. 1986 Formal Complaint. In addition the complainant agrees that he waives his right to sue over the matters raised in this complaint and that they will not be made subject of future litigation.

e. If the Army does not carry out, or rescind, any action specified by terms of the agreement for any not reason not attributable to acts or conduct of the complainant, the Army shall, upon the complainant's written request, reinstate the complaint for further processing from the point processing ceased under the terms of the agreement. If the Commander, 26th Support Group/USMC-Heidelberg Deputy Community Commander, (or his designee), determines that the terms of the agreement have been implemented, a decision declining to reinstate the complaint will be issued and the complainant will be advised of his appeal rights to the Equal Employment Opportunity Commission.

f. Entering into this agreement is deemed to be in the best interest of the Army and the US Government and shall not be interpreted or construed as an admission of a violation of the Civil Rights Act

of 1964, as amended, or any other Federal Statutes or regulation.

6. EFFECTIVE DATE. Date of receipt by USMC-Heidelberg, EEO Office subsequent to signing of both parties.
7. I have read the Negotiated Settlement Agreement and accept and agree to its provisions.

/s/ Frederick H. Borneman — 19TH February 1987
Colonel, IN — Date
Commander, 26th Support Group and
Deputy Community Commander, USMC-Heidelberg

/s/ Donald W. Perkal — 13th February 1987
Agency Representative — Date

/s/ Deloyise Echols — 27th February 1987
Complainant — Date

/s/ John J. Stewart — 25th February 1987
Complainant's Representative — Date

APPENDIX E

Reproduced for Exhibit

Request For Personnel Action

Part 1 Requesting Office

A. For Agency Use - DEH #15/87, 21 Apr. 87

B. For Additional Information - Mr. Jan. W. Whited 370-7113

C. Personnel Action Required - Temporary Detail

D. Proposed Effective Date - 19 Feb. 87

E. Requested By - Jan W. Whited, Chief, Housing Division

H. Approved By - Cecil O. Locklear. LTC, En, Dir, Engr & Heg.

I. Request the following Recruitment sources - Army Applicants: Promotion (Competitive Procedures) Ranked Reassignment (competitive procedures)

Part 2

1. Name - Deloyise Echols
2. SSN# 410-94-1141
3. Position Sentitvity - Non Sen
4. Date of Birth 12-01-54

20. From: Position & Title #. - Motor Vehicle Operator / Whs Wkr # 20048

21. Name and Location of Employing Office - Directorate, Engineering & Housing
House Division
Central Furnishings Mgmt Branch

22. Documentational Code - WG-S703

23. Grade or Level - 06

24. N/A
25. N/A
26. N/A
27. To: Position, Title, & Number - See attached set of duties.
28. -33. N/A
34. Duty Station - Heidelberg, Germany
35. -36. N/A
36. Remarks - TDA Data: EDW328AA, From Para 063E, OH to Para 063D, OH
Apropriation: 2172020 89-3430 202396.H6JED. GGHH-1100/1200 S91516 US

DETAILS OF DUTIES MR. ECHOLS WILL BE PERFORMING

1. Works under the general Supervision and guidance of the Chief, UPH Branch.

2. 100% Inventory of all quarters assigned to the UPH Branch at PHV and MTV, time frame for this inventory is Mid-May.

3. Mr. Echols will be performing duties on a inventory eam from Mid-May until Mid-June due to change of Property Book Officer at CFMB.

4. Other duties : On going
   Up-date of all handreceipts, making appointments with customers for signature of new handreceipt.

   Weekly inspections of all UPH quarters, common use areas. Weekly turn-in of laundry and pick-up of laundry. Monthly inspection of Fire Prevention items in each UPH building. Daily exchange of furnishings/equipment as requested by customers within the UPH-Branch/Quarters

5. An exchange program of all old

furnishing/equipment will be conducted from July-Sept., this will be getting each room/quarters for old furniture. Exchange will be done building and common use areas within the PHV and MTV quarters.

6. Mr. Echols will be assisting with loading and unloading materials, furnishings and equipment on a required basis. Setting up quarters with furniture as directed by Quarters Inspector.

NOTIFICATION OF PERSONNEL ACTION

1. Name - Echols, Deloyise
2. SSN# 410-94-1141
3. Position Sensitivity: Non-Sen
4. Date of Birth - 12-01-54
5. Veteran Preference: 2 - 5pt
6. Service Completion Date: 6-19-76
7. Tenure 0
8. Retirement 2 FICA
9. FEGLI - A - INELIGIBLE
10. FLSA - E- Exempt
11. Sex - Male
12. Citizenship - 1 - US
13. Comp Level 006
14. Effective Date 2-19-87
15. Annuitant - Indicator -9 - not applicable
16. Work Schedule - F - Fulltime
17. Reserved for OPM use
18.
    a. NOAC - VSO
    b. Detail NTE 06-18-37
    c. VSM
    d. 5 U.S.C. 3341 UNCLASS
20. From: Position, Title, & Number - Motor Vehicle Operator POS. No. 20048

21. Name & Location of Employing Office
U.S. Military Community Activity, HDG, DEH,
Housing DIV., Furniture Mgmt. Ofc.
Heidelberg, Germany 09102
22. Plan and Occupational Code WG-5703
23. Grade or Level - 06
24. Rate - 4
25. Salary $9.56
26. Pay Basis -PH
27. To: Position, Title & Number - Set of Duties
28. Director Engineer and Housing, Housing Division
Unacccomp Personnel Housing Branch
29. Pay plan one - occupational code
30. Grade or level - 00
31. Step or rank 00
32. Salary - $9.66
33. Pay Basis - PH
34. Duty Station - Heidelberg, Germany
35. Position Occupied - competitive
36. Appropriation Code - 202396.H6JED
37. Remarks Shift Rates 2nd $10.38 PH, 3rd $10.63 PH.
Code 2 in block 8 indicates coverage under FICA
APPRO 2172020 89-3430 202396.
H6JED.GGHH-1100 /1200 S91316 US
38. Title of Approving Official - SUPV Pers Mgmt Spec
39. Date - 02-15-87

40. SUPV Level - 8
41. Unit - *7777*
42. Signature/Authorization of Approving Official
    /s/ Melinda A. Denson
43. Location Code - GS5530000
44. Employing Department or Agency - Department
    of the Army

APPENDIX F

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Office of Federal Operations
P.O. Box 19848
Washington, DC 20036

Deloyise Echols,)
Appellant,)
v.)
Micheal P. W. Stone,)
Secretary,)
Departimment of the Army,)
Agency.)

DECISION
INTRODUCTION

Appellant filed an appeal with this Commission from a final decision of the agency concerning his complaint of unlawful employment discrimination, in violation of Title VII of the Civial Rights Act 1964, as amended, 42 U.S.C. 2000e et seg. The final agency decision was dated February 18, 1992. The appeal was received by the Commission on March 23, 1992. The agency did not supply a copy of a certified mail return receipt or any other material capable of conclusively

establishing the date appellant received final decision. Accordingly, since the agency has failed to fulfill its obligation to transmit its final decision by a method enabling the agency to show the date of the receipt (see, 1613.233 (a)), and is accepted in accordance with EEOC Order No. 960, as amended.

ISSUE PRESENTED

The issue on appeal are whether the agency properly rejected a portion of appellant's complaint for failure to contact an EEO Counselor in a timely manner and properly rejected and remanded for EEO counseling another portion of appellant's complaint on the grounds that appellant had not been counseled on this portion of his complaint.

BACKGROUND

Appellant filed a formal EEO complaint on January 22, 1992, which alleged that he was discriminated against on the basis of reprisal for prior EEO activity when:

(1) the servicing EEO officer, in concert with 21st TAACOM Labor Counselor, allowed appellants prior EEO complaints to fall into hands of an EEO staff member, who the wife of a person identified by appellant as a Responding Management Official in a prior EEO complaint filed by appellant: and,

(2) the Department of the Army (DA) officials responsible for processing appellant's complaint,

DA Docket No. 89-07-0100, failed to implement the actions directed by the Equal Opportunity Commission, Office of the Federal Operations, in Appeal Docket Number: 01911479, Compliance tracking Number; 06911666.

The agency issued a final agency decision, dated February 18, 1992, which rejected allegation (1) for failure by appellant to contact an EEO Counselor in a timely manner. The agency noted that appellant had first raised issue on November 23, 1989 with an EEO official, but had failed to seek counseling on the issue. The agency rejected allegation (2) on the grounds that appellant had not been counseled on the issue and remanded the issue for EEO counseling.

On appeal, appellant submitted that he did not learn that the processing of his complaint was biased, as he alleged on allegation (1), until November 20, 1991 when he was told of the biased processing. Regarding allegation (2) appellant stated that the issue was presented to an EEO Counselor on March 13, 1992 and that the issue is now pending adjudication.

ANALYSIS AND FINDINGS

Allegations that an agency has improperly processed a pending complaint for prohibited discriminatory purposes are referred to as "spin-off" allegations. If a complainant contacts an EEO Counselor concerning a spin-off allegation,

the Counselor shall conduct precomplaint processing in accordance with 29 C.F.R. 1613.213.

If following counseling, a complainant files a formal spin-off complaint, the agency must consolidate the spin-off complaint(s) with underlying pending complaint for processing and notify the investigation into the spin-off allegations which result in the development of a factual record. Upon issuance of the FAD on the underlying pending complaint, the agency shall make a decision on the merits of the spin-off allegations pursuant to 29 C.F.R. 1613.221. See, Mcfadden v. Department of Agriculture, EEOC Request No. 05920225 (April 9, 1992. When a complainant is no longer pending, a spin-off complaint must be processed as a new complaint. See, Mount v. Department of Air Force, EEOC request No. 05910648 (September 9, 1991).

Regarding allegation (1), the record shows that appellant raised his concerns of possible bias with an EEO Official on November 23, 1989. However, appellant stated that he learned on November 23, 1991 that his complaint had been sabotaged and that his EEO contact on December 4, 1991 was therefore, timely. We agree.

Appellant's allegation on December 4, 1911 concerned alleged actual bias in the processing of his complaints. Even if his suspicions regarding the possibility of such bias in November 1989 could be considered part of the allegation (1), appellant contacted an EEO Official at that time. We would therefore have to hold that appellant should have been referred to a Counselor. An appellant's initial EEO contact does not necessarily have to be with the EEO process. Therefore, we find that the agency should process appellant's allegation of alleged bias in processing of his prior EEO complaints as a spin-off complaint in accordance with rules for spin-off complaints discussed above. Regarding allegation (2), it does not appear from the record that appellant was counseled on this issue, as the agency stated in its FAD. Therefore, the agency was correct referring appellant back to an EEO Counselor for counseling on this issue.

CONCLUSION

Accordingly, the agency's final decision with respect to allegation (1) is **VACATED** and the complaint is **REMANDED** for processing in accordance with the ORDER below. The agency's decision to refer appellant's back to EEO counseling an allegation (2) is **AFFIRMED**.

ORDER

The agency is ORDERED to process the remanded allegations in accordance with EEOC Regulations 29 C.F.R. 1613.211 et seq. The agency shall notify the appellant that it has accepted the remanded allegations within (30) calendar days of the date this decision becomes final. The agency shall issue a proposed disposition within (150) calendar days of the date this decision becomes final, unless the matter is otherwise resolved prior to that time. See 29 C.F.R. 1613.217 (c). If the appellant requests a final decision without a hearing (see 29 C.F.R. 1613.217 (d)), the agency shall issue a final decision within (30) days of issuing the proposed disposition.

A copy of the letter of acceptance and proposed disposition (or final agency decision of a hearing is not held) must be sent to the Compliance Officer, as referenced below.

IMPLEMENTATION OF THE COMMISSION'S DECISION (K0391)

Compliance with the Commission's corrective action is mandatory. The agency shall submit its compliance report within thirty days of the completion of all ordered corrective action. The report shall submit to the Compliance Officer, Office of Federal Operations, Equal Employment Opportunity Commission, P.O. Box 19848, Washington,

D.C. 20036. The agency's report must contain supporting documentation, and the agency must send a copy of all submissions to the appellant.

STATEMENT OF RIGHTS - ON APPEAL
RIGHT TO REQUST REOPENING (MO391)

The Commission may, in discretion, reopen and reconsider the decision an this case if the appellant or the agency submits a written request containing argument or evidence which tends to establish that:

(1) New and material evidence is available that was not readily available when the previous decision issued, or
(2) The previous decision involved the erroneous interpretation of law or relation or misapplication or established policy; or
(3) The decision is of such exceptional nature as to have effects beyond the actual case at hand.

Request to reopen, with supporting arguments or evidence, MUST BE FILLED WITHIN THIRTY (30) CALANDAR DAYS after date you receive this decision, are within twenty (20) calendar days of the date your receive a timely request to reopen filed by another party. Any argument in opposition to the request to reopen or cross request to reopen MUST be submitted to the commission and to the requesting party WITHIN TWENTY (20) CALAEDAR DAYS of the date your receive the request to reopen. See 29

C.F.R. 1613.235. All requests and arguments must bare proof of post mark and be submitted to the director, Office of Federal Operation, Equal Employment Opportunity Commission, P.O. Box 19848, Washington D.C. 20036. In the absence of a legible post mark, the request to reopen shall be deemed filed on the date it is received by the commission.

RIGHT TO FILE A CIVIL ACTION (RO391)
This is a decision requiring the agency to continue its administrative processing of you complaint. However, if you wish to file a civil action, you have the right to file such action in an appropriate United State District Court: (1) within thirty (30) calendar days of receipt of notice of final action taken by the agency on your complaint submitted to this remand; or (2) after one hundred eighty (180) calendar days of the date you filed your complaint with the agency, or your appeal with the commission, until such time as the agency issues its final decisions on your complaints. See Section 717 {c} of Title VII of the Civil Rights Action of 1964, as amended, 42 U.S.C. 2000e et seq.; 29 C.F.R. 1613.281. You may be required to exhaust the administrative process prior to filing a civil action, depending upon the jurisdiction in which you filed. Furthermore, the limitations prior for filing a civil action under the Age Discrimination Employment Act of 1967, as amended, 29 U.S.C. 621 et seq. (ADEA) may differ from the period set out for the filing of civil actions

under Title VII of the Civil Right Act of 1964, 42 U.S.C. 2000e et seq., and the Rehabilitation Act of 1973, 29 U.S.C. 791. You may be foreclosed from filing a civil action on any claims brought under the ADEA if you fail to file within the limitations period applied by the court in the justification in which your action is filed. If you file a civil action, YOU MUST NAME AS THE DEFENDANT IN THE COMPLAINT THE PERSON IS THE OFFICIAL AGENCY HEAD OR IN THE COMPLAINT THE PERSON WHO IS THE OFFICIAL AGENCY HEAD OR DEPARTMENT HEAD, IDENTIFING THAT PERSON BY HIS OR HER FULL NAME AND OFFICE TITLE. Failure to do so may result of the dismissal of your case. "Agency" or "department" means the national organization, and not the local office, facility or department in which work. Filing a civil action will determine the administrative process of you complaint.

RIGHT TO REQUEST COUNSELING (z0391)

If you decide to file a civil action , and if you do not or cannot afford the service of an attorney, you may request that the court appoint an attorney to represent you and that the court permit you to file the action without payment of fees, costs, or other securities. See Title VII of the Civil the Right Acts of 1964, as amended, 42 U.S.C. 2000e et seq., The Rehabilitation Act of 1973, as amended, 29 U.S.C. 791, 794 {c}. The grant or denial of the request is within the sole

discretion of the court. Filing a request for an attorney does not extend your time in which to file a civil action. Both the request and the civil action MUST BE FILED WITHIN THIRTY (30) CALENDAR DAYS of the date you receive the commission's decision.

Aug. 19th 1992 FOR THE COMMISSION

/s/Ronnie Blumenthal, Director ,
Office of Federal Operations

September 14, 1992

AEAEE

SUBJECT: EEO Counselor's Report -DELOYISE ECHOLS

PART ONE BACKGROUND

1. NAME OF AGGRIEVED: Deloyise Echols
   (SSN: 410-94-1141)
2. POSITION: n/a
   ADDRESS: Home - NIBELUGEN STR 76
   6143 Lorsch
   West Germany
3. DATE OF CONTACT: 14th September 1992
4. ANONYMITY: Aggrieved was inform of right to anonymity at initial counseling. Right waived; signed waiver on file.
5. REPRESENTATION: Aggrieved was informed of right to representation at initial counseling. Right to waive; waiver on file.
6. AVENUES OF REDRESS: Aggrieved was informed of avenue of redress; signed accepting on file.

PART II Counselor Information

1. COUNSELOR NAME: Ms. Jacqueline Wise
2. COUNSELOR ADDRESS:HQ, 26th Support Group
   ATTN: AEUSG - EE

APO AE 09102
COUNSELOR'S PHONE NUMBER: ETS 370- 7234/8933

PART III INTRODUCTION

1. ALLEGATIONS:

Was the aggrieved discriminated against because of reprisal, when the EEO Officer (Mannheim) issue a new final agency decision, stating that the issues at hand were rejected because of being untimely and identical from previous complaints, despite the facts the Equal Opportunity Commission had made the decision that the aggrieved had filed a timely complaint, (appeal No. 01911479) ?

2. Basis : Reprisal
3. Issue : Notice of Rejection of complaint
4. Date: Alleged discriminatory action occurred June 30, 1992.
5. Responding Management Official: Mrs. Dorothy Carley EEO Officer Mannheim 293rd Base Support Battalion (RMO). ETS 380-6922. Mr. Joel Alvarey Labor Counselor Legal Service, Division 26 AREA Support Group Heidelberg 370-6410.
6. RELEASE REQUESTED:

a. Counseling the rejection letter.
b. Settle or investigate the issue of the complaint.
c. Ceast and desist reprisal other forms of discrimination.

d. retroactive pay from 5 April 1988, and restrained to former position WG-6 step 5 Warehouse Worker (Vehicle operator) job with Department of Defense.

PART IV - COUNSELING PLAN

1. THEORY OF DISCRIMINATION: The theory of discrimination in this case is disparate treatment. That is: the aggrieved alleged that he was treated less favorably than the people who had not engaged in a protected activity, due filing previous EEO complaints.

2. WITNESSES: The aggrieved, and the responding management official.

3. DOCUMENTS: The EEOC Decision-Appeal No. 01914791. EEO Compliance Tracking #: 06911666 (Commission's Decision). Notice of partial Rejection. EEO partial Rejection. EEO Complaint-docket no. RE

SIMILARILY SITUATED:

I determined that all people who filed previous EEO complaints with the basis being reprisal and who were rejected by the RMO, were similarly situated. This list include the name of the aggrieved and other US civilian employee's of DOD.

PART V - INQUIRY

1. MANAGEMENT'S REASONS:

a. The RMO Ms. Carley (Equal Employment Opportunity Officer) stated that when she received a directive from EEOC requesting clarity on the clarity on the aggrieved's

case, she called the Equal Employment Opportunity Compliance and Complaint's Review Agency (EEOCRA) and spoke with a Mr. Kelly. The RMO requested permission to reevaluate the entire case to get a clearer understanding of which issues were timely or duplicated. She could then reissue a final decision on what issues should be rejected. Permission was granted and the agency requested that she reissue a decision. Stated she did not consult with the labor counselor Mr. Joel Alvaray on the issues of this case.

b. I asked Joel Alvaray (Labor Counselor) was he contacted by the RMO, Ms. Dorothy Carley and he stated his assistance was not requested by the RNO Ms. Dorothy Carley. Given Mr. Alvaray's non participation in this matter, he was not considered as a RMO in this inquiry.

2. SUMMARY OF INTERVIEWS AND DOCUMENTS:

The aggrieved expressed in the initial interview that the Commission's decision in appeal No. 01911479 directed the EEO office to accept his complaint for processing and submit a compliancies report within a specific time frame Due to the fact that the EEO office responded by issuing a partial rejection of the compliant constitutes reprisal for engaging in a protected activity. I reviewed the decision paper from EEOC which directed the agency decision clearly supported by evidence in the

record. The compliant is remanded for further processing in accordance with the order. (Appeal No. 0191479)

SUBJECT: Discrimination Complaint of Deloyise Echols and M.W.P. Stone, Secretary of Army, DA Docket Number: 91-12-0031, AFCARA Number: AE00W920189

D) Date Filed: 19 January 1989 (USACARA 07-89-036)

E) (DA 89-02-0057) (DA 89-07-0100)

Basic : Reprisal

Issue : Non-referral for two vacancies (ASF-88-487-US)

RMO : Heidelberg Civilian Personnel Office, Housing Division, Directorate of Engineering and Housing Provost Marshal Office, Resource Management Office, USMCA Heidelberg

e. Date Filed : 26 June 2989 (USACARA 07-91-011-E) (DA 89-07-0100)

Basis : Reprisal

Issue : (1) Received a letter from Civilian Personnel Office informing him that was ordinary resident. (2) He received a written statement on 29 March 1988 from the CPOO informing him that his termination should not be considered as reflecting upon his performance or conduct, yet when he applied for employment on 4 April 1988, CPO placed his application in suspense until 29 April 1988 which

resulted in his application being delayed approximately one month. (3) CPO refused to consider him for a position on 29 April 1988. (4) The provost Marshal's Office and the Heidelberg community accused him of wrong doing, however, their accusation is based on an opinion. The false derogatory information is being forwarded to CPO which results in his applications for employment being delayed. (5) The trail counselor (SJA) Heidelberg took action that placed him in a position to be persecuted by the authority and it paved the way for further harassment by Heidelberg community. (6) POV operators license was revoked in February 1987, did not receive a copy of the Commander's Report of Disciplinary Action until late December 1988. All actions were reprisal for a claim against MP's and his EEO complaints. (7) He was transferred and subsequently terminated. Mr. Don Perkal, Labor Counselor, intimidated them because the law firm is listed on a list of American attorneys distributed to potential clients through the SJA office, Heidelberg, where Mr. Perkal works. (8) First part deals with the transfer and subsequent termination, the second alleges that negotiations by Mr. Franklin, EEO Officer, Heidelberg, were not conducted in good faith but were done to mask reprisal. (9) Not having received notification that he has been referred for jobs since June 1988. (10) All actions were taken as a form of reprisal.

f. Dated Filed: 3 August 1990 (USACARA NONE - DA 91-02-0100)

Basis: Sex (Male), Reprisal

Issue: (1) Received an ordinarily resident determination on 3 May 1990. The reason to CPO's inactivation of your applications for AF jobs does not apply to this situation. (2) Heidelberg Provost derogatory information to the CPO Office after the situation was cleared up. (3) Heidelberg EEO Officer suppressed information on your appeal. (4) Received on 17 July 1990 a memorandum dated 4 June 1990 indicating that the decision dated 19 September 1989 and 12 October 1989 had not been honored. (5) You believe that false information has been placed in your claim file by persons unknown at this time.

RMO: Provost Marshal Office, Directorate of Engineering Housing, and Civilian Personnel Office, USMCA Heidelberg.

g. Date File: 1 July 1991 (AFCARA AE00W920189) (DA 91-12-0031)

Basis: Sex (Male), Reprisal, Race/Color-Black

Issue: (1) The Investigator who was investigating one of his EEO complaints became romantically involved with one of the responding management officials. (2) The EEO Officer processing his discrimination complaint, USCACARA-EU docket # 07-91-063-E, did not properly consider information provided to clarify issues, rejected some issues, did not

forward 31 exhibits to the investigator, caused him to file a second compliant, and failed to join his complaints for investigation. (3) The Deputy Community Commander for USMCA Heidelberg did not accept his request to join his compliant for processing, supported the EEO Officer's decision to reject issues presented in his complaints and condoned the omission of 31 exhibits and witness testimony from the investigative report.
RMO: Director, USACARA-EU, Mr. Fred Hollingsworth, USACARA -EU Investigators Mr. Gross and Mr. Williams, Deputy Community Commander and EEO Officer, USMCA Heidelberg.
h. Date Filed: 2 December 1991 (USACARA NONE, DA 92-02-0105)
Basis: Reprisal
Issue: (1) Based on the advise of the servicing EEO Pfficer and Labor Counselor, the Deputy Community Commander, USMCA Heidelberg, signed and issued the Notice of Proposed Disposition. (a) the transfer from TDA data 63E to TDA data 63D, that is, transferring you from one position to another resulting in your lose of employment through a reduction in force; (b) the revocation of your driver's license; {c} the continued forwarding of false derogatory information to the Civilian Personnel Office by the Provost Marshals Office; (d) The Heidelberg CPO classifying you as an

ordinary resident after causing approximately five months delay in processing your application.
RMO: Deputy Community Commander, USMCA Heidelberg, EEO Officer and Labor Counselor, USMCA Mannheim.
i. Date Filed: 22 January 1992 (USACARA NONE, DA 92-02-0104)
Basis: Reprisal
Issue: (1) The servicing EEO Officer in concert with the 21st TAACOM Labor Counselor, allowed your compliant to fall into hands of an EEO staff member Ms. Marilee J. Perkal, who is the wife of a person identified by you as a responding management official in previous complaints. (2) Department of the Army (DA) officials responsible for processing your complaint, DA docket #89-07-0100, failed to implement the actions directed the Equal Opportunity Commission, Office of Federal Operations, in appeal docket Numbers: 01910408 and 01911479.
RMO: HQ, USAREUR EEO Officer; EEO Officer, 103d Area Support Group, Frankfurt; Deputy Director, EEOCCCRA; Director, Compliance Officer, EEOC, OFO; Director, EEOCCRA; the Secretary of the Army.
5. The complete case file in EEO complaint filed by Mr. Deloyise Echols on 18 May 1988, DA Docket No. 88-06-0128, is available in the HQ, USAREUR EEO Office for review. This file includes the USACARA Report of Investigation

prepared by Mr. Robert D. Williams, Investigator, and Approved by Mr. Douglas Dear, Acting Director, USACARA, European Region.

/s/ James A. Huffman
Complaints Manager